

**In the United States District Court for the District
of Nebraska**

DAVID PETERSEN,)
PETITIONER)
VS.)
U.S. Securities and Exchange Commission,)
DEFENDANT)

Case No. 8:22cv141

FILED
U.S. DISTRICT COURT
DISTRICT OF NEBRASKA
2022 APR 14 PM 1:45
OFFICE OF THE CLERK
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APR 14 2022
CLERK
U.S. DISTRICT COURT

**PETITION FOR WRIT OF MANDAMUS, OR A MOTION TO COMPEL
PRODUCTION OF RESPONSIVE FOIA INFORMATION**

COMES NOW, David P. Petersen, pro se, and acting on his own behalf pursuant to Haines v. Kerner, 404 U.S. 519, 30 L. Ed 2d (1972), and appears before this Court in the above matter.

Petitioner is pro se and requests the Court grant wide latitude to his pleadings under the Supreme Court holding in Haines v. Kerner, supra.

STATEMENT OF JURISDICTION

The Petitioner seeks an order from this Court that mandates the United States Securities & Exchange Commission in connection with the Federal Bureau of Investigation, the U.S. Attorney's office in Mobile, AL, the U.S. State Department, and any other required officials or employees of the United States federal government required to be involved, to provide the responsive information requested under the filed Freedom of Information Act Request No. 21-

02467-FOIA, and designated on appeal as No. 21-00646-APPS, and the current F.O.I.A. No. 22-00001-REMD’

State of Nebraska citizen, David P. Petersen, Individual, Pro se, who resides at 8109 South 194th Street, Gretna, NE 68028, brings this action against the United States Securities and Exchange Commission to compel compliance with the Freedom of Information Act, 5 U.S.C. § 552 (“FOIA”), and as grounds therefor alleges as follows:

JURISDICTION AND VENUE

This District Court has jurisdiction on this matter pursuant to; 28 U.S. Code § 1361 -Action to compel an officer of the United States to perform his duty.- The district courts shall have original jurisdiction of any action in the nature of mandamus to compel an officer or employee of the United States or any agency thereof to perform a duty owed to the plaintiff. (Added Pub. L. 87-748, § 1(a), Oct. 5, 1962, 76 Stat. 744)

This Court has jurisdiction pursuant to the All-Writs Act, which authorizes federal courts to issue writs “in the aid of their respective jurisdictions and agreeable to the usages and principles of law.” 28 U.S.C. 1651(a). The Court has jurisdiction over this action under 5 U.S.C. § 552(a)(4)(B) and 28 U.S.C. § 1331.

2. Venue is proper in this district according to 28 U.S.C. § 1391(e). as well as provided under the Freedom of Information Act’s rules and regulations, not mentioned by pro se party, David Petersen.

COMPLAINT

1. "David P. Petersen" or "Plaintiff") is a private Individual and a citizen of the State of Nebraska who seeks access to records in the possession, custody, and control of Defendant.
2. Defendant U.S. Securities and Exchange Commission ("Defendant") is an agency of the U.S. Government and is headquartered at, 100 F Street, NE, Washington, DC 205049. Defendant has possession, custody, and control of records to which Plaintiff seeks access under the Freedom of Information Act. Defendant has made numerous email acknowledgments over the last 7 months that they do have information responsive to my FOIA requests and have not provided any reason for the lack in production of the responsive information, nor any valid reasons for any continued delay in providing the requested information.

STATEMENT OF FACTS

3. On July 27, 2021, Petitioner filed the initial F.O.I.A. request to the U.S. Securities and Exchange Commission. Who responded on August 3, 2021, assigning the Request a tracking No. 21-02467-FOIA (See Exhibit "A")
4. On Sept. 30, 2021, Petitioner received a letter from U.S. Securities and Exchange FOIA office stating the SEC had "conducted a thorough search of the SEC's various systems of records but did not locate or identify any information responsive to your request". (See Exhibit "B")
- 5.. On Sept. 30, 2022, Petitioner filed an appeal to the SEC's denial to provide any responsive FOIA request information from FOIA request No. 21-02467-FOIA. An Appeal Tracking number was issued as No. 21-00646-APPS, also on Sept. 30, 2022. Also received on that date was a letter SEC Asst. Counsel Linda Hardy detailed, the Appeal and the Remand of the original request to look in places that they had not looked. (See Exhibit "C") Of Note, the

original denial letter stated the original FOIA search covered “all” of the various libraries of records available to the SEC.

6. Between Sept. 30, 2021, and Oct. 1, 2021, Mark Tallarico, Senior Counsel, for the U.S. Securities and Exchange Commission communicated via email on the Appeal being granted and the new Remand letter was formally issued on Oct. 7, 2021 (See Exhibit “D”)

5. On Nov. 18, 2021, (well past the 30-day response requirement) Petitioner, sent an email to Mark Tallarico, SEC Senior Counsel, asking for a status update as per his instruction from his email in September 2021. On Nov. 19, 2021, Mr. Tallarico responded via email that the SEC “FOIA Office was still working on gathering the documents that may be responsive to your request.” This communication was the first acknowledgment that the SEC had responsive documents. (See Exhibit “E”)

6. On Nov. 30, 2021, Petitioner emailed Frank Mandic, the SEC Investigator on this request, to receive a status update on the FOIA request. On Nov. 30, 2021 Mr. Mandic responded via email stating “ We are consulting with our program office at this time. Hopefully, we will hear back from them very soon.” This was the second acknowledgment that there were responsive documents to the FOIA request by the Petitioner. (See Exhibit “F”)

7. On Dec 13, 2021, Mr. Frank Mandic sent a Partial Response Letter to the Petitioner. In that letter, he made mention of “voluminous” documents had been located. (3rd mention of responsive documents after an initial denial of there being any responsive records at all!.) Mr. Mandic suggested that a narrowed search take place. Petitioner agreed via an email to Mr. Mandic on Dec. 13, 2021, recommendation, and refined the search parameters in the interest of

time and relevant information being provided. It was stated that “We hope to have updated information by next week” (this was the week ending Dec. 24, 2021) (See Exhibit “G”)

8. On Jan 5, 2022, Petitioner sent an email requesting status on the production of the narrowed FOIA information expected by Dec. 24, 2021, per prior communications for Lizzette Katillus, The SEC FOIA Branch Chief. Who was out of the office. Then the Petitioner referred his inquires to the Investigator Frank Mandic, getting no response from either party. Then after another email attempt for status on the FOIA request to Ms. Katillus, After again getting no response, Petitioner proceeded to contact the Senior Counsel for the SEC, Mark Tallarico. Ms. Katillus then answered on behalf of Mr. Tallarico on Jan. 28, 2022, stating; “ We have been processing your request and it appears the program office located records that may be responsive to your request We are in the process of determining the volume and will send you word once we have that information.” Again, for the fourth time, the SEC has acknowledged that there were responsive documents and other information related to my FOIA request. This took place after the SEC denied there were any responsive records at all in Sept. 2021. See Exhibit “H”)

9. On Feb. 15, 2022, Petitioner sent another email to Ms. Katillus at the SEC requesting a date to receive the responsive information to the FOIA request that had at this point been acknowledged 4 times since the original denial that there was any responsive information. On Feb. 16, 2022, Ms. Katillus replied vis email to Petitioner and stated: “ Mr. Petersen, the program office we are consulting with believes it may have some electronic records that are potentially responsive to your request and are in the process of retrieving them. We hope to respond to your request by the middle of March 2022.” This is now the 5th time the SEC acknowledged the existence of responsive information to Petitioner’s FOIA request. On March 30, 2022, the

Petitioner sent his last email request for status and the production of the responsive documents requested. (See Exhibit “ I”)

Count One - (Violation of FOIA, 5 U.S.C. § 552)

10. . Plaintiff realleges paragraphs 1 through 9 as if fully stated herein.

11. . Defendant is in violation of FOIA.

12. Plaintiff is being irreparably harmed by Defendant’s violation of FOIA, and Plaintiff will continue to be irreparably harmed unless Defendant is compelled to comply with the law.

13. . Plaintiff has no adequate remedy at law.

14. Petitioner has made exhaustive requests for production of requested information since the remand of the original FOIA request in Oct.2021 Numerous communications expressing the time limits of the Freedom of Information Act had long since been met with no production of information responsive to the FOIA request. Defendant has acknowledged on five occasions that there was responsive, even voluminous information found related to the Petitioner’s FOIA request, even after denying the original request stating that all available SEC records had been searched. It wasn’t until the Appeal of the denial by the SEC by the Petitioner, where the Petitioner showed an Exhibit to the Appeal of a discovery document that a statement by the FBI in a case summary stated clearly that the FOIA communication information was communicated between the FBI and the SEC. WHEREFORE, Plaintiff respectfully requests that the Court:

(1) Order Defendant to conduct a search for any and all records responsive to Plaintiff’s FOIA requests and demonstrate that it employed search methods reasonably likely to lead to the

reasonable timeline within the limits of the FOIA regulations for the discovery of records responsive to Plaintiff's FOIA requests;

(2) Order Defendant to produce, by a date certain, any and all non-exempt records responsive to Plaintiff's FOIA requests and Vaughn indices of any responsive records withheld under a claim of exemption;

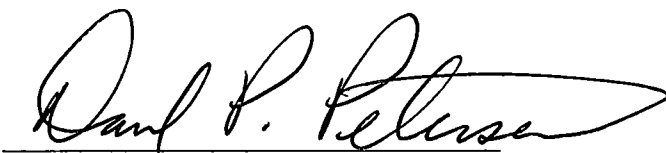
(3) Enjoin Defendant from continuing to withhold any and all non-exempt records responsive to Plaintiff's FOIA requests;

(4) Grant Plaintiff an award of fees and other litigation costs reasonably incurred in this action according to 5 U.S.C. § 552(a)(4)(E); and

(5) Grant Plaintiff such other relief as the Court deems just and proper.

Dated April 13, 2022

Respectfully submitted,

A handwritten signature in black ink, appearing to read "David P. Petersen", written over a horizontal line.

By: David P. Petersen

8109 South 194th Street

Gretna, NE 68028

402-983-6448

Email: petersendave02@gmail.com

INDEX OF EXHIBITS

Exhibit "A" - On July 27, 2021, Petitioner filed the initial F.O.I.A. request to the U.S. Securities and Exchange Commission. Who responded on August 3, 2021, assigning the Request a tracking No. 21-02467-FOIA.

Exhibit "B" – On Sept. 30, 2021, Petitioner received a letter from U.S. Securities and Exchange FOIA office stating the SEC had “conducted a thorough search of the SEC’s various systems of records but did not locate or identify any information responsive to your request”.

Exhibit "C" – On Sept. 30, 2022, Petitioner filed an appeal to the SEC’s denial to provide any responsive FOIA request information from FOIA request No. 21-02467-FOIA. An Appeal Tracking number was issued as No. 21-00646-APPS, also on Sept. 30, 2022. Also received on that date was a letter SEC Asst. Counsel Linda Hardy detailed, the Appeal and the Remand of the original request to look in places that they had not looked

Exhibit "D" - Between Sept. 30, 2021, and Oct.1, 2021, Mark Tallarico, Senior Counsel, for the U.S. Securities and Exchange Commission communicated via email on the Appeal being granted and the new Remand letter was formally issued on Oct. 7, 202.

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Exhibit "G" – On Dec 13, 2021, Mr. Frank Mandic sent a Partial Response Letter to the Petitioner. In that letter, he made mention of “voluminous” documents had been located. (3rd mention of responsive documents after an initial denial of there being any responsive records at all!) Mr. Mandic suggested that a narrowed search take place. Petitioner agreed via an email to Mr. Mandic on Dec. 13, 2021, recommendation, and refined the search parameters in the interest of time and relevant information being provided. It was stated that “We hope to have updated information by next week” (this was the week ending Dec. 24, 2021

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another email attempt for status on the FOIA request to Ms. Katillus, After again getting no response, Petitioner proceeded to contact the Senior Counsel for the SEC, Mark Tallarico. Ms. Katillus then answered on behalf of Mr. Tallarico on Jan. 28, 2022, stating; “ We have been processing your request and it appears the program office located records that may be responsive to your request We are in the process of determining the volume and will send you word once we have that information.” Again, for the fourth time, the SEC has acknowledged that there were responsive documents and other information related to my FOIA request. This took place after the SEC denied there were any responsive records at all in Sept. 2021

Exhibit “I” - On Feb. 15, 2022, Petitioner sent another email to Ms. Katillus at the SEC requesting a date to receive the responsive information to the FOIA request that had at this point been acknowledged 4 times since the original denial that there was any responsive information. On Feb. 16, 2022, Ms. Katillus replied to vis email to Petitioner and stated: “ Mr. Petersen, the program office we are consulting with believes it may have some electronic records that are potentially responsive to your request and are in the process of retrieving them. We hope to respond to your request by the middle of March 2022.” This is now the 5th time the SEC acknowledged the existence of responsive information to Petitioner’s FOIA request. On March 30, 2022, the Petitioner sent his last email request for status and the production of the responsive documents requested.

Exhibit “A”

On July 27, 2021, Petitioner filed the initial F.O.I.A. request to the U.S. Securities and Exchange Commission. Who responded on August 3, 2021, assigning the Request a tracking No. 21-02467-FOIA

Exhibit “A” -Cover Sheet

July 27, 2010

FOIA Act Officer

United States Securities and Exchange Commission

100 F Street NW

Washington, D.C. 20549

Re: Freedom of Information Act Request

Dear Freedom of Information Officer:

David P. Petersen, hereby requests that the Securities and Exchange Commission ("SEC"), in accordance with the Freedom of Information Act, 5 U.S.C. § 552 ("FOIA") by this correspondence, provide notice for any non-public consumer complaints, investigations, and / or disciplinary actions that may be on file for the subjects listed below that took place, specifically, between June 2012 and March 2014, related to a complaint made by Bill Abram, Wesley Todd McCain, presented to the Federal Bureau of Investigation ("FBI") branch office in Mobile, AL., made against either/ or; Westover Trading Partners Ltd., Ramco and Associates, LLC, Timothy C. Durkin, Steven Merry, Yaman Sencan, or David P. Petersen. The Special Agent in charge of this complaint was S.A. William Ryan Kennedy, assisted by Agent Katheryn Scott, both at the time working with the Mobile, AL branch office of the "FBI".

An additional request is made, that the Securities and Exchange Commission ("SEC"), in accordance with the Freedom of Information Act, 5 U.S.C. § 552 ("FOIA") by this correspondence, provide the following:

1. Any and all records regarding, concerning, or related to the consideration of, or initiation of an investigation (formal or informal), or review of a complaint made by Bill Abram, Wesley Todd McCain, presented to the Federal Bureau of Investigation ("FBI") branch office in Mobile, AL., The Special Agent in charge of this complaint was S.A. William Ryan Kennedy, assisted by Agent Katheryn Scott, both at the time working with the Mobile, AL branch office of the "FBI". It is known by sworn testimony of these FBI agents that communication between the FBI office in Mobile, AL office was taking place with the Securities and Exchange Commission ("SEC") regional offices in Atlanta, GA.
2. Any notes and all records regarding, concerning, or related to the complaint presented to the Federal Bureau of Investigation ("FBI") branch offices in Mobile, AL
3. Any and all records, and documents regarding, concerning, or related to the proposed investigation related to the complaint made by Bill Abram, Wesley Todd McCain, presented to the Federal Bureau of Investigation ("FBI") branch office in Mobile, AL.,

4. Any and all related records of communication between any official, employee, or representative of the "SEC" and any official, employee, or representative of any branch of the United States Government regarding the complaint made by Bill Abram, Wesley Todd McCain, presented to the Federal Bureau of Investigation ("FBI") branch office in Mobile, AL.,

5. Any and all records of communication between any official, employee, or representative of the Department of State and the U.S. Attorney offices in the Southern District of Alabama, related to the complaint made by Bill Abram, Wesley Todd McCain, presented to the Federal Bureau of Investigation ("FBI") branch office in Mobile, AL.,

It is specifically requested that the search for records responsive to this request include, but not be limited to, any and all cables/teletypes, emails, notes (both written, typed, or other records created or received by any "SEC" stationed at the "SEC" offices in Atlanta, GA, or Washington, D.C.

I understand that you may be responsible for the costs associated with processing this request and ask that you contact me in advance if the estimated costs will exceed \$ 100.

Due to the nature of this request being related to an on-going legal matter we ask that this request be expedited, as per the FOIA Act allows.

Please determine whether to comply with this request within the time period required by FOIA and notify us immediately of your determination, the reasons therefor, and the right to appeal any adverse determination to the head of the agency or his or her designee. 5 U.S.C. § 552(a)(6)(I).

Please also produce all responsive records in an electronic format ("pdf" is preferred), if convenient. We also are willing to accept a "rolling production" of responsive records if it will facilitate a more timely production.

We have no commercial interests and do not seek the requested records for any commercial use. Rather, we intend to use the requested records as part of our on-going investigation into misconduct by certain government officials and to provide accountability in government and fidelity to the rule of law.

Thank you for your cooperation.

Sincerely,



David P. Petersen

402-983-6448 davidppetersen@outlook.com

7522 South 173rd Street

Omaha, NE 68136



UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
STATION PLACE
100 F STREET, NE
WASHINGTON, DC 20549-2465

Office of FOIA Services

August 03, 2021

Mr. David P. Petersen
7522 South 173rd Street
Omaha, NE 68136

Re: Freedom of Information Act (FOIA), 5 U.S.C. § 552
Request No. **21-02467-FOIA**

Dear Mr. Petersen:

This letter is an acknowledgment of your FOIA request dated July 27, 2021, and received in this office on August 02, 2021, for records regarding complaint made by Bill Abram, and Wesley Todd McCain.

Your request has been assigned tracking number 21-02467-FOIA. Your request will be assigned to a Research Specialist for processing and you will be notified of the findings as soon as possible. If you do not receive a response after thirty business days from when we received your request, you have the right to seek dispute resolution services from an SEC FOIA Public Liaison or the Office of Government Information Services (OGIS). A list of SEC FOIA Public Liaisons can be found on our agency website at <https://www.sec.gov/oso/contact/foia-contact.html>. OGIS can be reached at 1-877-684-6448 or [Archives.gov](https://www.archives.gov) or via email at ogis@nara.gov.

In the interim, if you have any questions about your request, you may contact this office by calling (202) 551-7900, or sending an e-mail to foiapa@sec.gov. Please refer to your tracking number when contacting us.

For additional information, please visit our website at www.sec.gov and follow the FOIA link at the bottom.

Sincerely,

Office of FOIA Services

Exhibit “B”

On Sept. 30, 2021, Petitioner received a letter from U.S. Securities and Exchange FOIA office stating the SEC had “conducted a thorough search of the SEC’s various systems of records but did not locate or identify any information responsive to your request”.

Exhibit “B” -Cover Sheet



UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
STATION PLACE
100 F STREET, NE
WASHINGTON, DC 20549-2465

Office of FOIA Services

September 30, 2021

Mr. David P. Petersen
7522 South 173rd Street
Omaha, NE 68136

Re: Freedom of Information Act (FOIA), 5 U.S.C. § 552
Request No. **21-02467-FOIA**

Dear Mr. Petersen:

This letter is in response to your request, dated July 27, 2021 and received in this office on August 02, 2021, for information regarding complaint made by Bill Abram, Wesley Todd McCain.

Based on the information you provided in your letter, we conducted a thorough search of the SEC's various systems of records, but did not locate or identify any information responsive to your request.

If you still have reason to believe that the SEC maintains the type of information you seek, please provide us with additional information, which could prompt another search. Otherwise, we conclude that no responsive information exists and we consider this request to be closed.

You have the right to appeal the adequacy of our search or finding of no responsive information to the SEC's General Counsel under 5 U.S.C. § 552(a)(6), 17 CFR § 200.80(f)(1). The appeal must be received within ninety (90) calendar days of the date of this adverse decision. Your appeal must be in writing, clearly marked "Freedom of Information Act Appeal," and should identify the requested records. The appeal may include facts and authorities you consider appropriate.

You may file your appeal by completing the online Appeal form located at https://www.sec.gov/forms/request_appeal, or mail your appeal to the Office of FOIA Services of the Securities and Exchange Commission located at Station Place, 100 F Street NE, Mail Stop 2465, Washington, D.C. 20549, or deliver it to Room 1120 at that address.

David P. Petersen
September 30, 2021
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21-02467-FOI

If you have any questions, please contact me at mandicf@sec.gov. You may also contact me at foiapa@sec.gov or (202) 551-7900. You may also contact the SEC's FOIA Public Service Center at foiapa@sec.gov or (202) 551-7900. For more information about the FOIA Public Service Center and other options available to you please see the attached addendum.

Sincerely,

A handwritten signature in cursive script that reads "Frank Mandic".

Frank Mandic
FOIA Research Specialist

Enclosure

Exhibit “C”

On Sept. 30, 2022, Petitioner filed an appeal to the SEC’s denial to provide any responsive FOIA request information from FOIA request No. 21-02467-FOIA. An Appeal Tracking number was issued as No. 21-00646-APPS, also on Sept. 30, 2022. Also received on that date was a letter SEC Asst. Counsel Linda Hardy detailed, the Appeal and the Remand of the original request to look in places that they had not looked

Exhibit “C” -Cover Sheet

From: David Petersen
Sent: Thursday, September 30, 2021 10:12 AM
To: mandicf@sec.gov
Cc: katiliusl@sec.gov
Subject: RE: 21-02467-FOIA - 21-02467-FOIA

RE Request No. 21-02467-FOIA Reply and Appeal

Hello Frank

I wanted to contact you regarding my appeal regarding the FOIA request No. 21-02467-FOIA. I did speak with Ms. Katilius, (sorry if I misspelled her name) who asked for me to cc her on this email as well. I did use the link provided to appeal the decision to close this request.

I am attaching a FBI "Case Summary" that was sent to the U.S. Attorney's Office in Mobile, AL by the FBI, on page 15 of 16 of this case summary it states that there was communications between the SEC and the FBI related to the complaint and case in question. This Case Summary excerpt was an Exhibit in several federal court pleadings without dispute of its contents being factual. In addition (not provided) is additional AUSA responses that reference additional information received by the FBI in Aug-Sept. 2013. (this can be made available if needed.

Please advise if I need to provide or do any further steps to obtain the information and documents requested

Best regards,

David Petersen
402-983-6448

Sent from Mail for Windows

From: mandicf@sec.gov
Sent: Thursday, September 30, 2021 5:58 AM
To: davidppetersen@outlook.com
Subject: 21-02467-FOIA - 21-02467-FOIA

Case: 14-12577 Date Filed: 03/22/2016 Page: 64 of 81

U.S. Department of Justice
Federal Bureau of Investigation

March 21, 2013

318B-MO-47109

Investigators: SA William Ryan Kennedy
FoA Katheryn Scott
IA Kristina Wake
FBI Mobile
200 North Royal
Mobile, Alabama

Subjects: Yaman Sencan SSN 261-61-0175 DOB 07/08/1959
Stephen Merry SSN 573-83-0747 DOB 02/19/1960
David Petersen SSN 506-80-2053 DOB 01/01/1957
Timothy Durkin SSN 086-84-0790 DOB 02/24/1951
Stephen Kirkland SSN 254-06-6614 DOB 06/13/1963

Statutory Violations: 18 USC 1343 (wire fraud)
15 USC 77q (securities fraud)
18 USC 1348(2) (securities fraud)
18 USC 371 (conspiracy)

Summary:

Sencan, Merry, Petersen, and Durkin were the owners/managers of the Ramco and Westover investment funds, which they described as a "high yield arbitrage" trading method. The fund was supposed to capitalize on minute differences in market pricing to generate profits. Seventeen investors, including Mobile, Alabama residents Dr. Michal Lee, Todd McCain, and Michael Spellmeyer, and Alabama Corporation EMR, invested approximately \$3,571,118. However, only \$211,000 was transferred to a brokerage account at Interactive Brokers, most of which was re-deposited into the originating account. The remaining investor funds were used to pay off other investors, other subjects in related schemes (Steve Kirkland), or used for personal gain. The last available bank statements showed only \$14,856.59 in available funds remaining in the bank accounts identified by FBI Mobile, but the investors still receive weekly statements saying funds are available.

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EX

Sencan, Merry, Petersen Durkin 000258

Case: 14-12577 Date Filed: 08/22/2016 Page: 65 of 81

- Merry (sdmerry@aol.com)

- As with Sencan's account, Merry was also receiving statements from Petersen, but in a different format. Most important in Merry's account is the fact that Merry maintained communication with subjects Petersen, Sencan, and Durkin, and investors McCain and Abrams.

Other

- FINRA—documentation was obtained from FINRA relating to an investigation into inappropriate trading activities by Sencan. While Sencan was part owner of a business called Mercator he was inappropriately sharing profits with Merry through his business Kasa Capital. FINRA took a deposition of Sencan, which was obtained, and Sencan ultimately signed an agreement that he did inappropriately share profits with Kasa Capital. Sencan was barred from trading for 6 months. Interestingly, the agreement was signed during the life time of the Westover/Ramco fraud.
- SEC—(this documentation is still in review) In short, the SEC has been investigating an individual named Steve Kirkland who has been the owner of investment businesses The Kirkland Organization and Team Kirkland Organization. Allegations have been made that Kirkland defrauded his investors. Evidence shows that Merry and Petersen had direct contact with Kirkland. That Kirkland provided funds to Ramco/Westover, and that some Lee's funds were given to Kirkland. It appears that Kirkland used those funds to pay off his investors. The SEC has provided their documentation.

Page 15 of 16

Sencan, Merry, Pete  000272



UNITED STATES
SECURITIES AND EXCHANGE COMMISSION

STATION PLACE
100 F STREET, NE
WASHINGTON, DC 20549-2465

Office of FOIA Services

September 30, 2021

Mr. David P. Petersen

7522 South 173rd Street
Omaha, NE 68136

Re: Freedom of Information Act (FOIA), 5 U.S.C. § 552
Appeal No. **21-00646-APPS** (21-02467-FOIA)

Dear Mr. Petersen:

This letter is an acknowledgment of your FOIA Appeal dated and received in this office on September 30, 2021 regarding complaint made by Bill Abram, Wesley Todd McCain.

Your appeal has been assigned tracking number **21-00646-APPS**, and is assigned to the SEC's Office of the General Counsel for processing. You will receive a direct response from that office regarding a decision on your Appeal.

In the interim, if you have questions about your appeal, you may contact the Office of the General Counsel by calling 202-551-5100, or sending an email to foiapa@sec.gov. Please cite the Appeal tracking number provided above.

Sincerely,

Office of FOIA Services



UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

OFFICE OF THE
GENERAL COUNSEL

Stop 9613

September 30, 2021

Via electronic mail
davidppetersen@outlook.com

Mr. David P. Petersen
7522 South 173rd Street
Omaha, NE 68136

Re: Appeal, Freedom of Information Act Request No. 21-02467-FOIA, and
designated on appeal as No. 21-00646-APPS

Dear Mr. Petersen:

This responds to your Freedom of Information Act (FOIA) appeal of the FOIA Office's response to your August 2, 2021 FOIA request for five categories of records relating to a complaint made by Bill Abram and Wesley Todd McClain to the Federal Bureau of Investigation (FBI).¹ By letter dated September 30, 2021, the FOIA Office informed you that it could not locate any responsive records.

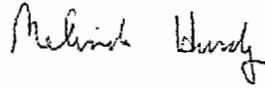
On September 30, 2021, you filed this appeal. You provide that the subject of your request is for "[i]nformation regarding communication between the FBI and the SEC (Atlanta Branch)." You also reference an SEC investigation concerning The Kirkland Organization and Team Kirkland Organization. I have confirmed with the FOIA Office that its search did not look for these communications or into any SEC investigations concerning these entities. Given your clarification, I am remanding this matter for further consideration and to search for any potentially responsive records. On remand, the FOIA Officer will determine the applicability of

¹ Specifically, you requested the following records: (1) any and all records regarding, concerning, or related to the consideration of, or initiation of an investigation (formal or informal), or review of a complaint made by Bill Abram, Wesley Todd McCain, presented to the Federal Bureau of Investigation ("FBI") branch office in Mobile, Alabama; (2) any notes and all records regarding, concerning, or related to the complaint presented to the FBI branch offices in Mobile, Alabama; (3) any and all records, and documents regarding, concerning, or related to the proposed investigation related to the complaint made by Bill Abram, Wesley Todd McCain, presented to the FBI branch office in Mobile, Alabama; (4) any and all related records of communication between any official, employee, or representative of the SEC and any official, employee, or representative of any branch of the United States Government regarding the complaint made by Bill Abram, Wesley Todd McCain, presented to the FBI branch office in Mobile, Alabama; and (5) any and all records of communication between any official, employee, or representative of the Department of State and the U.S. Attorney Offices in the Southern District of Alabama, related to the complaint made by Bill Abram, Wesley Todd McCain, presented to the FBI branch office in Mobile, Alabama.

any FOIA exemptions, including the ones previously asserted. You may contact Ms. Lizzette Katilius, FOIA Branch Chief, at 202-551-7900, regarding the status of this matter on remand.

If you have any questions concerning my determination, please contact Mark Tallarico, Senior Counsel, at 202-551-5132.

For the Commission
by delegated authority,

A handwritten signature in cursive script that reads "Melinda Hardy".

Melinda Hardy
Assistant General Counsel for
Litigation and Administrative Practice

Exhibit “D”

Between Sept. 30, 2021, and Oct.1, 2021, Mark Tallarico, Senior Counsel, for the U.S. Securities and Exchange Commission communicated via email on the Appeal being granted and the new Remand letter was formally issued on Oct. 7, 2021

Exhibit “D” -Cover Sheet

From: David Petersen
Sent: Saturday, October 2, 2021 7:19 AM
To: Tallarico, Mark
Subject: Re: SEC FOIA Appeal Decision - FOIA Appeal No. 21-00646-APPS

Thank you very much for your attention.

David Petersen

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From: Tallarico, Mark <tallaricom@SEC.GOV>
Sent: Friday, October 1, 2021 9:14:04 AM
To: David Petersen <davidppetersen@outlook.com>
Subject: RE: SEC FOIA Appeal Decision - FOIA Appeal No. 21-00646-APPS

David,

My apologies for using an old address. I believe I used the one that the FOIA Office used in responding to your request. I will note the correct spelling of Mr. Abrams. However, the FOIA request does identify him throughout as Bill Abram so that is what we relied upon. I will also make the FOIA Office aware of this as well.

Thanks and let me know if you have any other questions or concerns.

Mark Tallarico
Senior Counsel
Office of the General Counsel
U.S. Securities and Exchange Commission
[100 F Street, NE](#)
[Washington, DC 20549](#)
[202.551.5132](#)
tallaricom@sec.gov

From: David Petersen <davidppetersen@outlook.com>
Sent: Friday, October 01, 2021 9:49 AM
To: Tallarico, Mark <tallaricom@SEC.GOV>
Subject: RE: SEC FOIA Appeal Decision - FOIA Appeal No. 21-00646-APPS

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.
--

Thank you Mark for the prompt response to my FOIA appeal. For clarity, I would like to note several small items regarding the FOIA form. First, I see you are using an old address as the mailing address. The correct address from the FOIA request is: David P. Petersen, 8109 South 194th Street, Gretna, NE 68028. Also one of the names has a typo, "Bill Abram" should be spelled as "Bill Abrams", in addition your records may use the formal name of William Abrams. Thank you.

Best regards,

David Petersen
402-983-6448

Sent from Mail for Windows

From: Tallarico, Mark
Sent: Thursday, September 30, 2021 2:48 PM
To: davidppetersen@outlook.com
Subject: SEC FOIA Appeal Decision - FOIA Appeal No. 21-00646-APPS

Mr. Petersen,

Attached please find the SEC's appeal decision for FOIA Appeal No. 21-00646-APPS (FOIA Request No. 21-02467-FOIA). Please let me know if you have any questions concerning this decision.

Thank you.

Mark Tallarico
Senior Counsel
Office of the General Counsel
U.S. Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549
202.551.5132
tallaricom@sec.gov



UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
STATION PLACE
100 F STREET, NE
WASHINGTON, DC 20549-2465

Office of FOIA Services

October 07, 2021

Mr. David P. Petersen
7522 South 173rd Street
Omaha, NE 68136

Re: Freedom of Information Act (FOIA), 5 U.S.C. § 552
Appeal No. 21-00646-APPS (Request No. 21-02467-FOIA)

Dear Mr. Petersen:

This letter is an acknowledgment of the Office of General Counsels remand of your FOIA appeal, dated and received in this office on September 30, 2021, regarding complaint made by Bill Abram, Wesley Todd McCain.

Your remand has been assigned tracking number **22-00001-REMD**. Your request will be assigned to a Research Specialist for processing and you will be notified of the findings as soon as possible. If you do not receive a response after thirty business days from when we received your remanded request you have the right to seek dispute resolution services from an SEC FOIA Public Liaison or the Office of Government Information Services (OGIS). A list of SEC FOIA Public Liaisons can be found on our agency website at <https://www.sec.gov/oso/contact/foia-contact.html>. OGIS can be reached at 1-877-684-6448 or [Archives.gov](https://www.archives.gov) or via email at ogis@nara.gov.

In the interim, if you have any questions about your request, you may contact this office by calling 202-551-7900, or sending an e-mail message to foiapa@sec.gov. Please refer to your tracking number when contacting us.

Sincerely,

Office of FOIA Services

Exhibit “E”

On Nov. 18, 2021, (well past the 30-day response requirement) Petitioner, sent an email to Mark Tallarico, SEC Senior Counsel, asking for a status update as per his instruction from his email in September 2021. On Nov. 19, 2021, Mr. Tallarico responded via email that the SEC “FOIA Office was still working on gathering the documents that may be responsive to your request.” This communication was the first acknowledgment that the SEC had responsive documents.

Exhibit “E” -Cover Sheet

From: David Petersen
Sent: Tuesday, November 30, 2021 8:13 AM
To: mandicf@sec.gov
Subject: Fwd: SEC FOIA Appeal Decision - FOIA Appeal No. 21-00646-APPS

Hello Frank

Can you please advise on the status of the FOIA request #22-00001 REMD. I have been waiting longer than the 30 business days and have not heard any reply on this request. Please advise on status.
Thank you,

David Petersen
402-983-6448

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From: David Petersen <davidppetersen@outlook.com>
Sent: Friday, November 19, 2021 3:38:56 PM
To: davidppetersen <davidppetersen@protonmail.com>
Cc: Katilius, Lizzette <KatiliusL@SEC.GOV>
Subject: RE: SEC FOIA Appeal Decision - FOIA Appeal No. 21-00646-APPS

Hello Lizette

Per the email response below from Mark Tallarico, you are the person that can provide the status of the FOIA Appeal Remand Number: 22-00001- REMD. I was instructed in a letter from your office stating, "If I did not hear anything from your office regarding the appeal remand I was to reach out to you, and your office for a response. If there is no response please advise, as I will appeal that finding as well. I feel you were very responsive when you first contacted me. I hope we can get the same on this matter as it has been 30 business days since the Appeal Remand formally was dated (Oc. 7, 2021) . I look forward to your reply

Regards,

David Petersen
402-983-6448

Sent from [Mail](#) for Windows

From: Tallarico, Mark
Sent: Friday, November 19, 2021 7:06 AM
To: David Petersen
Cc: Katilius, Lizzette
Subject: RE: SEC FOIA Appeal Decision - FOIA Appeal No. 21-00646-APPS

David,

Thank you for your email. From what I can tell, the FOIA Office is still working on gathering the documents that may be responsive to your request. I have cc'd Lizzette Katilius, the FOIA Branch Chief overseeing the processing of your remand. Lizzette will be able to provide you a more detailed update on where things stand in processing the remand.

Please let me know if there are any other questions that you have. Thank you.

Mark Tallarico
Senior Counsel
Office of the General Counsel
U.S. Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549
202.551.5132
tallaricom@sec.gov

From: David Petersen <davidppetersen@outlook.com>
Sent: Thursday, November 18, 2021 5:33 PM
To: Tallarico, Mark <tallaricom@SEC.GOV>
Subject: RE: SEC FOIA Appeal Decision - FOIA Appeal No. 21-00646-APPS

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hello Mark:

This is David Petersen making an inquiry into the status of the FOIA Appeal Remand Number: 22-00001-REMD. I was instructed in the letter from your office attached, "If I did not hear anything from your office regarding the appeal remand I was to reach out to you, and your office for a response. If there is no response please advise, as I will appeal that finding as well. I feel you were very responsive when you first contacted me. I hope we can get the same on this matter as it has been 30 business days since the Appeal Remand formally was dated (Oc. 7, 2021) . I look forward to your reply.

Best regards,

David Petersen
[402-983-6448](tel:402-983-6448)

Sent from Mail for Windows

From: Tallarico, Mark
Sent: Thursday, September 30, 2021 2:48 PM
To: davidppetersen@outlook.com
Subject: SEC FOIA Appeal Decision - FOIA Appeal No. 21-00646-APPS

Exhibit “F”

On Nov. 30, 2021, Petitioner emailed Frank Mandic, the SEC Investigator on this request, to receive a status update on the FOIA request. On Nov. 30, 2021mr. Mandic responded via email stating “ We are consulting with our program office at this time. Hopefully, we will hear back from them very soon.” This was the second acknowledgment that there were responsive documents to the FOIA request by the Petitioner

Exhibit “F” -Cover Sheet

From: David Petersen
Sent: Wednesday, December 8, 2021 7:46 PM
To: Mandic, Frank
Subject: Re: SEC FOIA Appeal Decision - FOIA Appeal No. 21-00646-APPS

Hello Frank

I received your email from Nov 30 and have no further updates or communication from you. I have been patiently waiting with no response. I have had to appeal this FOIA request after the initial denial in late September. It is now way past the required 30 business days since the October 7 remand date. If you are saying there are no records under the requested FOIA, please say so formally. If you have records that have been found related to this search, please make them available as the time limits are long past. I am getting no reason for any delay so I am justified in my insistence for information under the FOIA.

Thank you

David Petersen
402-983-6448

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From: Mandic, Frank <MandicF@SEC.GOV>
Sent: Tuesday, November 30, 2021 8:31:52 AM
To: David Petersen <davidppetersen@outlook.com>
Subject: RE: SEC FOIA Appeal Decision - FOIA Appeal No. 21-00646-APPS

Hi David,

Thank you for your message.

We are still consulting with our program office at this time. Hopefully we will hear back from them very soon. We sincerely apologize for the delay and inconvenience and appreciate your patience.

Thanks,

Frank

From: David Petersen <davidppetersen@outlook.com>
Sent: Tuesday, November 30, 2021 9:13 AM
To: Mandic, Frank <MandicF@SEC.GOV>
Subject: Fwd: SEC FOIA Appeal Decision - FOIA Appeal No. 21-00646-APPS

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hello Frank

Can you please advise on the status of the FOIA request #22-00001 REMD. I have been waiting longer than the 30 business days and have not heard any reply on this request. Please advise on status.

Thank you,

David Petersen
402-983-6448

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From: David Petersen <davidppetersen@outlook.com>
Sent: Friday, November 19, 2021 3:38:56 PM
To: davidppetersen <davidppetersen@protonmail.com>
Cc: Katilius, Lizzette <KatiliusL@SEC.GOV>
Subject: RE: SEC FOIA Appeal Decision - FOIA Appeal No. 21-00646-APPS

Hello Lizette

Per the email response below from Mark Tallarico, you are the person that can provide the status of the FOIA Appeal Remand Number: 22-00001- REMD. I was instructed in a letter from your office stating, "If I did not hear anything from your office regarding the appeal remand I was to reach out to you, and your office for a response. If there is no response please advise, as I will appeal that finding as well. I feel you were very responsive when you first contacted me. I hope we can get the same on this matter as it has been 30 business days since the Appeal Remand formally was dated (Oc. 7, 2021) . I look forward to your reply

Regards,

David Petersen
402-983-6448

Sent from Mail for Windows

From: Tallarico, Mark
Sent: Friday, November 19, 2021 7:06 AM
To: David Petersen
Cc: Katilius, Lizzette
Subject: RE: SEC FOIA Appeal Decision - FOIA Appeal No. 21-00646-APPS

David,

Exhibit “G”

On Dec 13, 2021, Mr. Frank Mandic sent a Partial Response Letter to the Petitioner. In that letter, he made mention of **“voluminous” documents had been located.** (3rd mention of **responsive documents after an initial denial of there being any responsive records at all!.**) Mr. Mandic suggested that a narrowed search take place. Petitioner agreed via an email to Mr. Mandic on Dec. 13, 2021, recommendation, and refined the search parameters in the interest of time and relevant information being provided. It was stated that “We hope to have updated information by next week” (this was the week ending Dec. 24, 2021

Exhibit “G” -Cover Sheet



UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
STATION PLACE
100 F STREET, NE
WASHINGTON, DC 20549-2465

Office of FOIA Services

December 13, 2021

Mr. David P. Petersen
7522 South 173rd Street
Omaha, NE 68136

RE: Freedom of Information Act (FOIA), 5 U.S.C. § 552
Request Nos. **21-02467-FOIA, 21-00646-APPS and**
22-00001-REMD

Dear Mr. Petersen:

This letter is in further reference to your request, dated July 27, 2021 and received in this office on August 2, 2021, for various records relating to a complaint made by Bill Abram and Wesley Todd McCain to the Federal Bureau of Investigation (FBI).

By letter dated September 30, 2021, we informed you that we conducted a thorough search but did not locate or identify any records responsive to your request. We also provided you with your appeal rights.

On September 30, 2021, you filed an appeal with our Office of the General Counsel (OGC), in which you challenged the adequacy of our office's search and clarified that the subject of your request is for "[i]nformation regarding communication between the FBI and the SEC (Atlanta Branch)." You also referenced an SEC investigation concerning The Kirkland Organization and Team Kirkland Organization.

By letter dated September 30, 2021, OGC remanded your request to our office for further consideration and to conduct a new search for communications between the FBI and the SEC (Atlanta Branch) regarding the SEC's investigation concerning The Kirkland Organization and Team Kirkland Organization.

We will be unable to respond to your request within the Freedom of Information Act's twenty day statutory time period, as there are unusual circumstances which impact on our ability to quickly process your request. Therefore, we are invoking the 10 day extension. These unusual circumstances are: (a) the need to search for and collect records from an organization

Mr. David P. Peterson
December 10, 2021
Page 2

21-02467-FOIA,
21-00646-APPS and
22-00001-REMD

geographically separated from this office; (b) the potential volume of records responsive to your request; and (c) the need for consultation with one or more other offices having a substantial interest in either the determination or the subject matter of the records. For these reasons, we will process your case consistent with the order in which we received your request.

We have received preliminary search results for records concerning The Kirkland Organization and Team Kirkland Organization. At this time we have located approximately 1.26 gigabytes of electronically maintained records (equivalent to approximately 10 boxes of records¹) and 6 boxes of paper records² that may be responsive to your request. This estimate may increase after the search is complete. We will communicate these findings to you once available.

Under the FOIA, you are considered an "Other Use" requester. As such, you are entitled to two (2) hours of search time and 100 pages free of charge. Once these entitlements are met you are required to pay search and duplication fees, in accordance with our fee schedule.³

We typically estimate that it will take approximately 4 to 8 hours to review the contents of one box of records (approximately 2,500 pages) for responsiveness and releasability under the FOIA. Therefore, our preliminary estimate at this point to review the approximately 16 boxes of records is between 64 hours and 128 hours.

Since the records are voluminous, if requested, we would process them on our Complex track. Under 5 U.S.C. § 552(b)(6)(D)(i) agencies may provide for multi-track processing of requests for records based on the amount of work or time (or

¹ Please note that estimating the box equivalent of electronic data is not a precise measurement; consequently, the exact number of boxes may be more or less than estimated here.

² Due to the COVID-19 pandemic, we are experiencing an ongoing, temporary impact to some of our normal operations, including obtaining and processing records from Federal Records Centers and on-site file rooms. Therefore, obtaining and processing records located at these locations could be delayed.

³ In accordance with the fee provisions of the FOIA Improvement Act of 2016, all search time will be waived in this instance. Moreover, because any records we release would be provided to you electronically, there will be no duplication fees associated with your request.

Mr. David P. Peterson
December 13, 2021
Page 3

21-02467-FOIA,
21-00646-APPS and
22-00001-REMD

both) involved in processing requests. The SEC's regulation implementing multi-track processing is located at 17 CFR § 200.80(d)(4).


Investigatory records generally consist of transcripts of testimony, exhibits, and miscellaneous evidentiary materials. Therefore, you may want to consider narrowing the scope of your request.

At present we anticipate that it may take thirty-six months or more before we can begin to process a request placed in our Complex track.

If you are interested in having us place your request in our Complex track, please write or call me by **December 27, 2021** and identify the records of interest to you.

If you have any questions, or if you would like to discuss ways in which you can narrow the scope of your request to possibly avoid placement in our Complex track, please contact me at mandicf@sec.gov. You may also contact me at foiapa@sec.gov or (202) 551-7900. You may also contact the SEC's FOIA Public Service Center at foiapa@sec.gov or (202) 551-7900. For more information about the FOIA Public Service Center and other options available to you please see the attached addendum.

Sincerely,



Frank Mandic
FOIA Research Specialist

Enclosure

From: David Petersen
Sent: Monday, December 13, 2021 7:22 AM
To: mandicf@sec.gov
Subject: RE: 22-00001-REMD Partial Response Complex Track Estimate Other - 22-00001-REMD

Hello Frank

Thank you for your response. I will take your advise and narrow the search dramatically. As it relates to the request for information concerning "The Kirkland Organization, Team Kirkland Organization, and Steve Kirkland. I am only interested in the Findings of the SEC as it relates to those entities, as it relates to SEC vs Kirkland civil lawsuit by the SEC, and ANY communication with the Mobile, AL offices of the U.S. Attorney and the F.B.I.. I really don't wish to waste your time or mine with Team Kirkland Organization, The Kirkland Organization and Steve Kirkland's SEC investigory records of transcripts of testimony, exhibits, and miscellaneous evidentiary materials, just the findings of the investigation itself. I hope this narrows the scope of the FOIA request dramatically.

The rest of the parties named I and requests made in the F.O.I.A. request remain the same.

Please advise on time estimate to complete this narrowed search.

Best regards,

David Petersen

402-983-6448 Text is OK

Sent from Mail for Windows

From: mandicf@sec.gov <mandicf@sec.gov>
Sent: Monday, December 13, 2021 6:39:18 AM
To: davidppetersen@outlook.com <davidppetersen@outlook.com>
Subject: 22-00001-REMD Partial Response Complex Track Estimate Other - 22-00001-REMD

From: David Petersen
Sent: Tuesday, December 14, 2021 1:29 PM
To: Katilius, Lizzette
Subject: Re: Remanded FOIA number 22-00001

Thank you for your prompt reply!

David Petersen

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From: Katilius, Lizzette <KatiliusL@SEC.GOV>
Sent: Tuesday, December 14, 2021 8:58:01 AM
To: David Petersen <davidppetersen@outlook.com>
Cc: Mandic, Frank <MandicF@SEC.GOV>
Subject: RE: Remanded FOIA number 22-00001

Mr. Petersen, I checked the file and see that Frank sent you a letter on Dec. 9, and you responded by refining the scope of your request. We are checking into the existence of records based on your modified request. We hope to have updated information by next week.

Thank you,
Lizzette

Lizzette Katilius
U.S. Securities and Exchange Commission
Office of FOIA Services, Branch Chief
202-551-7910
<https://www.sec.gov/page/foia>

From: David Petersen <davidppetersen@outlook.com>
Sent: Friday, December 10, 2021 8:52 AM
To: Katilius, Lizzette <KatiliusL@SEC.GOV>
Subject: Remanded FOIA number 22-00001

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.
--

Hello Ms Katilius

I sent the following email message to Frank Mandic 2 days ago concerning a way overdue Remanded FOIA request response. Can you please advise concerning my request and issues with non compliance or communication. Thank you.

Hello Frank

I received your email from Nov 30 and have no further updates or communication from you. I have been patiently waiting with no response. I have had to appeal this FOIA request after the initial denial in late September. It is now way past the required 30 business days since the October 7 remand date. If you are saying there are no records under the requested FOIA , please say so formally. If you have records that have been found related to this search, please make them available as the time limits are long past. I am getting no reason for any delay so I am justified in my insistence for information under the FOIA.

Thank you

David Petersen
402-983-6448

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Exhibit “H”

On Jan 5, 2022, Petitioner sent an email requesting status on the production of the narrowed FOIA information expected by Dec. 24, 2021, per prior communications for Lizzette Katillus, The SEC FOIA Branch Chief. Who was out of the office. Then the Petitioner referred his inquires to the Investigator Frank Mandic, getting no response from either party. Then after another email attempt for status on the FOIA request to Ms. Katillus, After again getting no response, Petitioner proceeded to contact the Senior Counsel for the SEC, Mark Tallarico. Ms. Katillus then answered on behalf of Mr. Tallarico on Jan. 28, 2022, stating; “ We have been processing your request and it appears the program office located records that may be responsive to your request We are in the process of determining the volume and will send you word once we have that information.” Again, for the fourth time, the SEC has acknowledged that there were responsive documents and other information related to my FOIA request. This took place after the SEC denied there were any responsive records at all in Sept. 2021

Exhibit “H” -Cover Sheet

From: Katilius, Lizzette
Sent: Friday, January 28, 2022 8:44 AM
To: davidppetersen@outlook.com
Cc: Tallarico, Mark; Mandic, Frank
Subject: FW: Remanded FOIA number 22-00001-REMD

Mr. Petersen, I am responding to your message addressed to Mark Tallarico. We have been processing your request and it appears the program office located records that may be responsive to your request. We are in the process of determining the volume and will send word once we have that information.

Thank you,
Lizzette

Lizzette Katilius
U.S. Securities and Exchange Commission
Office of FOIA Services, Branch Chief
202-551-7910
<https://www.sec.gov/page/foia>

From: David Petersen <davidppetersen@outlook.com>
Sent: Friday, January 28, 2022 9:05 AM
To: Tallarico, Mark <tallaricom@SEC.GOV>
Subject: Fwd: Remanded FOIA number 22-00001

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hello Mark

I am reaching out to you as I have been unable to get any response from the FOIA investigator or his supervisor as to the status or results on my remanded FOIA request, that I was told by the supervisor I would have the week prior to Christmas. I am at a loss as to why I suddenly am getting zero communication or results. Can please assist in this matter.

Respectfully,

David Petersen
402-983-6448

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From: David Petersen <davidppetersen@outlook.com>
Sent: Friday, January 21, 2022 4:25:01 PM
To: Katilius, Lizzette <KatiliusL@SEC.GOV>
Subject: Fwd: Remanded FOIA number 22-00001

Hello Lizzette

I am sending this email string forward to you as I have made several inquiries on the FOIA Remand status to both you and Frank over the last month. In your last communication by email you expected response by Dec 24. Can you please advise.

Regards

David Petersen
402-983-6448

Get Outlook for iOS

From: David Petersen <davidppetersen@outlook.com>
Sent: Wednesday, January 5, 2022 4:30:19 PM
To: mandicf@sec.gov <mandicf@sec.gov>
Subject: FW: Remanded FOIA number 22-00001

Frank I have been inquiring on the FOIA Remanded FOIA number 22-00001, since the week of the 24th of December from Ms. Katilius, she seems to be out for the last month. Can you please advise on this? Thank you

Dave Petersen
402-983-6448

Sent from Mail for Windows

From: David Petersen
Sent: Wednesday, January 5, 2022 4:21 PM
To: Katilius, Lizzette
Subject: RE: Remanded FOIA number 22-00001

Hello Lizzette

In reference to the timing on receipt of information regarding Remanded FOIA number 22-00001 referenced in the email string below, The last time you emailed me on Dec 14, 2021 you stated you hoped to have the updated information by the next week, which at the latest would have been Dec 24, 2021. It is now 1-5-2022 almost a month since the last email you sent, and I have no answer or update. Can you please provide a status update or the FOIA information requested.

Thank you,

Exhibit “I”

On Feb. 15, 2022, Petitioner sent another email to Ms. Katillus at the SEC requesting a date to receive the responsive information to the FOIA request that had at this point been acknowledged 4 times since the original denial that there was any responsive information. On Feb. 16, 2022, Ms. Katillus replied via email to Petitioner and stated: “ Mr. Petersen, the program office we are consulting with believes it may have some electronic records that are potentially responsive to your request and are in the process of retrieving them. We hope to respond to your request by the middle of March 2022.” This is now the 5th time the SEC acknowledged the existence of responsive information to Petitioner’s FOIA request. On March 30, 2022, the Petitioner sent his last email request for status and the production of the responsive documents requested.

Exhibit “I” -Cover Sheet

From: David Petersen
Sent: Wednesday, March 30, 2022 3:59 PM
To: Katilius, Lizzette
Cc: Tallarico, Mark; Mandic, Frank
Subject: Re: Remanded FOIA number 22-00001-REMD

Hello Ms. Katilius

In your last email correspondence you mentioned that I could expect to receive the requested information from my FOIA by mid- March. Again we have not received any response from your office. Please let me know if there is further delays as the time to respond has long been exceeded and further delay has no reason. I really have been patient with this request and deserve results when deadlines are not met with no valid explanation.

Please advise asap,

David Petersen
402-983-6448
petersendave02@gmail.com
8109 South 194th Street
Gretna, NE. 68028

[[+]]
name: David Petersen
title: Account Executive
phone: 14029836448
email: davidpetersen@spoton.com
pronouns:
[[+]]

From: David Petersen <davidppetersen@outlook.com>
Sent: Wednesday, February 16, 2022 4:24:22 PM
To: Katilius, Lizzette <KatiliusL@SEC.GOV>
Cc: Tallarico, Mark <tallaricom@SEC.GOV>; Mandic, Frank <MandicF@SEC.GOV>
Subject: Re: Remanded FOIA number 22-00001-REMD

Thank you for your reply and your attention.

Best regards,

David Petersen

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From: Katilius, Lizzette <KatiliusL@SEC.GOV>
Sent: Wednesday, February 16, 2022 3:48:23 PM
To: David Petersen <davidppetersen@outlook.com>
Cc: Tallarico, Mark <tallaricom@SEC.GOV>; Mandic, Frank <MandicF@SEC.GOV>
Subject: RE: Remanded FOIA number 22-00001-REMD

Mr. Petersen, the program office we are consulting with believes it may have some electronic records that are potentially responsive to your request and they are in the process of retrieving them. We hope to respond to your request by the middle of March 2022.

Thank you,
Lizzette

Lizzette Katilius
U.S. Securities and Exchange Commission
Office of FOIA Services, Branch Chief
202-551-7910
<https://www.sec.gov/page/foia>

From: David Petersen <davidppetersen@outlook.com>
Sent: Tuesday, February 15, 2022 8:46 AM
To: Katilius, Lizzette <KatiliusL@SEC.GOV>
Cc: Tallarico, Mark <tallaricom@SEC.GOV>; Mandic, Frank <MandicF@SEC.GOV>
Subject: Re: Remanded FOIA number 22-00001-REMD

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Good Morning Ms Katilius

I am reacting out for any status or timeframe to get the FOIA information requested. Please advise.

Thank you

David Petersen

Get Outlook for iOS

From: David Petersen <davidppetersen@outlook.com>
Sent: Friday, January 28, 2022 9:15:47 AM
To: Katilius, Lizzette <KatiliusL@SEC.GOV>
Cc: Tallarico, Mark <tallaricom@SEC.GOV>; Mandic, Frank <MandicF@SEC.GOV>
Subject: Re: Remanded FOIA number 22-00001-REMD

Hello Lizzette

Thank you for your reply. Can you please give a realistic time-line as to when we can expect to get the requested information. In your last correspondence you stated I would have likely the week of December 24,2021. It has been a considerable time since that week and I have not heard anything and no reason for the delay. Your response this morning is appreciated but provides no indication of timeframe. I usual 30 business days has passed and I feel if I am expected to be patient, then I deserve communication.

Thank you,

David Petersen

Get Outlook for iOS

From: Katilius, Lizzette <KatiliusL@SEC.GOV>
Sent: Friday, January 28, 2022 8:44:53 AM
To: davidppetersen@outlook.com <davidppetersen@outlook.com>
Cc: Tallarico, Mark <tallaricom@SEC.GOV>; Mandic, Frank <MandicF@SEC.GOV>
Subject: FW: Remanded FOIA number 22-00001-REMD

Mr. Petersen, I am responding to your message addressed to Mark Tallarico. We have been processing your request and it appears the program office located records that may be responsive to your request. We are in the process of determining the volume and will send word once we have that information.

Thank you,
Lizzette

Lizzette Katilius
U.S. Securities and Exchange Commission
Office of FOIA Services, Branch Chief
202-551-7910
<https://www.sec.gov/page/foia>

From: David Petersen <davidppetersen@outlook.com>
Sent: Friday, January 28, 2022 9:05 AM
To: Tallarico, Mark <tallaricom@SEC.GOV>
Subject: Fwd: Remanded FOIA number 22-00001

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--

Hello Mark

In the United States Court, District of Nebraska

David P. Petersen

Plaintiff,

v.

THE UNITED STATES, Securities & Exchange Commission

Defendant

CERTIFICATE OF SERVICE

I hereby certify that on April 13 2022, a copy of Complaint submitted to the U.S. Court of Federal Claims was mailed via, United States Postal Service to , Mark Tallarico, Senior Counsel for the Securities and Exchange Commission at the following address: U.S. Securities & Exchange Commission, 100 F Street, NE, Washington, D.C. 20549



David P. Petersen

8109 South 194th Street

Gretna, NE 68028

402-983-6448

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From: D. Petersen
8109 South 194th Street
Gretna, NE 68028

TO: Clerk of the District Court
Roman L. Hruska Federal Courthouse
111 South 18th Plaza, Ste. 1152
Omaha, NE 68102

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